



General Assembly

January Session, 2005

Substitute Bill No. 6072

* _____HB06072JUD____041505_____*

**AN ACT PROTECTING THE COMMISSIONS OF SALES
REPRESENTATIVES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) As used in sections 1 to 4,
2 inclusive, of this act:

3 (1) "Commission" means compensation that accrues to a sales
4 representative, for payment by a principal, at a rate expressed as a
5 percentage of the dollar amount of sales, orders or profits or any other
6 method of compensation agreed to between a sales representative and
7 principal including, but not limited to, fees for services and retainers;

8 (2) "Person" means an individual, corporation, limited liability
9 company, partnership, unincorporated association, estate trust or other
10 similar entity;

11 (3) "Principal" means a person who: (A) Manufactures, produces,
12 imports, sells or distributes a product or service, (B) establishes a
13 business relationship with a sales representative to solicit orders for a
14 product or service, and (C) compensates a sale representative, in
15 whole, or in part, by commission;

16 (4) "Sales representative" means a person who: (A) Establishes a
17 business relationship with a principal to solicit orders for products or

18 services, and (B) is compensated in whole, or in part, by commission.
19 "Sales representative" does not include an employee or a person who
20 places orders or purchases on the person's own account or for resale or
21 a seller, as defined in subsection (c) of section 42-134a of the general
22 statutes; and

23 (5) "Termination" means the end of the business relationship
24 between a sales representative and a principal, whether by agreement,
25 expiration of time or the exercise of a right of termination by either
26 party.

27 Sec. 2. (NEW) (*Effective from passage*) (a) Not later than thirty days
28 after the effective date of termination, the principal shall pay to the
29 sales representative any and all commissions due under a contract for
30 payment of commissions on the effective date of such termination and
31 shall pay any such commission that becomes due after the effective
32 date of such termination not later than thirty days after such
33 commission becomes due.

34 (b) Any principal who wilfully, wantonly, recklessly or in bad faith
35 fails to comply with the provisions of subsection (a) of this section
36 shall be liable in a civil action brought by a sales representative for
37 twice the full amount of the commission owed to such sales
38 representative.

39 (c) The failure of a principal to respond to the written demand for
40 commissions owed to a sales representative not later than thirty days
41 after such principal receives such written demand shall create a
42 rebuttable presumption that such principal acted wilfully and in bad
43 faith provided such written demand is sent to such principal by
44 certified mail.

45 (d) The prevailing party in any action brought pursuant to
46 subsection (b) of this section shall be entitled to reasonable attorney's
47 fees and court costs.

48 (e) Any principal who establishes a business relationship with a

49 sales representative to solicit orders for products or services in this
50 state shall be deemed to be doing business in this state for purposes of
51 establishing jurisdiction over such principal in an action brought
52 pursuant to subsection (b) of this section.

53 Sec. 3. (NEW) (*Effective from passage*) (a) The acceptance by a sales
54 representative of a commission payment from a principal shall not
55 constitute a release by such sales representative of any other
56 commissions which such sales representative claims are due except if
57 such payment is made pursuant to a binding and final written
58 settlement agreement and release. Any full release of all commissions
59 claimed to be owed by a sales representative as a condition to a partial
60 commission payment shall be null and void.

61 (b) In the event that a principal makes a revocable offer of a
62 commission to a sales representative, whether written or verbal, such
63 sales representative shall be entitled to such commission if: (1) The
64 principal revokes the offer of commission and the sales representative
65 establishes that such revocation was made for the sole purpose of
66 avoiding payment of such commission; (2) such revocation occurs after
67 the principal has obtained a written order for the principal's product or
68 service through the efforts of the sales representative; and (3) the
69 principal's product or service that is the subject of the order is
70 provided to and paid for by a customer.

71 Sec. 4. (NEW) (*Effective from passage*) (a) Any provision in a contract
72 between a sales representative and a principal that provides for the
73 waiver of any provision of sections 2 and 3 of this act shall be void.

74 (b) Nothing in sections 2 and 3 of this act shall be construed to
75 invalidate or restrict any right or remedy available to a sales
76 representative or preclude a sales representative from seeking to
77 recover in one action all claims against such principal.

78 (c) Nothing in sections 2 and 3 of this act shall be construed to apply
79 to an insurance producer or producer, as defined in section 38a-702a of
80 the general statutes, or to an insurer, as defined in section 38a-1 of the

81 general statutes.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	New section
Sec. 4	<i>from passage</i>	New section

GL *Joint Favorable Subst.*

JUD *Joint Favorable*